

MAR 16 1982

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(5) of the Internal Revenue Code.

You were incorporated on [REDACTED], under the [REDACTED] Non-Profit Corporation act. Your stated purposes are to breed, train, and improve horses for cutter, chariot, and horse racing; to promote the social intercourse among the membership and the general racing public; to provide and maintain suitable facilities, grounds and track for cutter, chariot and horse racing and to conduct on said grounds and track, racing exhibitions and contests of speed and races of every kind and description, for premiums, purses, and other awards made up from fees or otherwise; and to obtain licenses under the respective state laws for pari-mutuel wagering or betting, and to charge the public admission thereto and to said grounds and track, and to let such rights and privileges to others to conduct stands and booths for the sale of food and other refreshments to persons on said premises. To do all things what may be properly done incidental to the foregoing purpose of this association. To enter and conduct races and promote the purposes of this association in any state.

Your primary activity is the operation of a pari-mutuel racetrack open to the general public. You periodically hold races, which your members compete in. The net income from each race is computed and divided by the number of member teams competing in the race and distributed to them.

For the period ending [REDACTED], your revenue came from the following sources: dues \$[REDACTED], gate receipts \$[REDACTED], calcutta (wagering) receipts \$[REDACTED], picture sales \$[REDACTED], banquet sales \$[REDACTED]. Expenditures for the same period were the following: dues and subscriptions \$[REDACTED], operating supplies \$[REDACTED], trophies \$[REDACTED], calcutta cash \$[REDACTED], entertainment \$[REDACTED], disbursements to members (from the net proceed from each race) \$[REDACTED], professional services \$[REDACTED], advertising \$[REDACTED], and repairs and maintenance \$[REDACTED]. Revenues exceeded expenditures for the period in the amount of \$[REDACTED].

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		[REDACTED]					
Surname		[REDACTED]					
Date		3-15-82					

Section 501(c)(5) of the Code provides for exemption from Federal income tax of agricultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that organizations contemplated by section 501(c)(5) of the Code are those which have no net earnings inuring to the benefit of any member, and have as their objects the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue Ruling 67-252, 1967 C.B. 195, defines "agriculture" as "the art or science of cultivating the ground including preparing soil, planting seeds, raising crops, and rearing, feeding, and managing livestock."

Activities that only remotely promote the interests of those engaged in agricultural pursuits will not qualify an organization for exemption. It was held that a corporation was not exempt where it was organized for the purpose of holding agricultural fairs, stock shows, and horse race meets, but had discontinued the holding of agricultural fairs and stock shows and devoted itself solely to horse racing. The organization also shared in betting profits. Forest City Livestock and Fair Co. v. Commissioner, B.T.A. Memo, 32, 215 (P.H.) (1932). The court said: "It is presumed that Congress used the word 'agricultural' in its general accepted sense. It would be a far stretch of the imagination that would allow it to be used as a cloak to give exemptions from taxation to the racing business. The single fact that horse racing tends to promote the breeding of better race horses which are raised on a farm, is not enough. The connection to agriculture should be more immediate than this."

Based on the information you have presented, your primary activity, if not your only activity, is the operation of a pari-mutual racetrack in a commercial manner. Furthermore, net proceeds from your races are inuring to your members based on the "net income" from each separate race. Your organization is very similar in operation to the one described above in Forest City Livestock and Fair Co. v. Commissioner. Accordingly, we have determined that your activities only remotely promote the interests of those engaged in agriculture, and your net earnings are inuring to members. Therefore, tax-exemption under section 501(c)(5) is denied and you should file Federal income tax returns.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

[REDACTED]

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018